IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

Crl.MC.No. 3937 of 2006()

CC.318/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR

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PETITIONER: ACCUSED

THUSIKANNAN HASHIQUE, S/O. SAHEED,
AGED 44 YEARS, PRESENTLY EMPLOYED AT RUWAIS,
ABUDABI, U.A.E. AND HAVING PERMANENT ADDRESS
AT 'ASMAS', P.O.THANA, KANNUR DISTRICT.

BY ADV. SRI.M.K.SUMOD
SRI.KAUSER EDAPPAGATH

RESPONDENTS:

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1. KALLAPUTHIYAPURAYIL SAREENA,
D/O. KATHIN, "THEJUS", SAIDARPALLI P.O.,
TEMPLE GATE, THALASSERY, KANNUR DISTRICT.

2. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3937 OF 2006

Dated this the 15th day of December, 2006

ORDER

The petitioner is the 1st accused in a prosecution under Sec.498A of the IPC. Proceedings were initiated on the basis of a private complaint filed by the 1st respondent/wife. The complaint was referred to the police under Sec.156(3) of the Cr.P.C. Thereafter, the police, after investigation, filed the charge sheet under Secs.498A and 406 read with Sec.109 of the IPC against six accused persons including the petitioner herein. The petitioner, who was employed abroad, was not available for trial. Accused 2 to 6 faced trial before the learned Magistrate. They were found not guilty and acquitted. The case against the petitioner was split up. It is now pending as C.C.No.318/05.

2. During the pendency of the proceedings, the parties have now settled their disputes. Divorce has been effected. Parties are residing separately. The respondent/complainant has compounded the offence allegedly committed by the

petitioner.

3. In these circumstances, the learned counsel for the petitioner and the learned counsel for the 1st respondent make a joint request that the prosecution against the petitioner may be quashed by invoking the jurisdiction under Sec.482 of the Cr.P.C. The respondent/wife has filed a statement/compromise petition duly counter signed by her counsel to confirm that the disputes have been settled and the offences compounded.

4. From the averments made in the petition, from the compromise statement filed by the respondent/wife and from the submissions made by the learned counsel at the Bar – the learned counsel for the 1st respondent/wife vouches for the signature of the 1st respondent in the application for composition, I am satisfied that the parties have settled their disputes and the composition has been made by the 1st respondent.

5. The offences alleged include non-compoundable offence. But as held in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386), I am satisfied that, in the interests of harmony, in the peculiar facts and circumstances of this case, powers under Sec.482 of the Cr.P.C. can be invoked to quash the proceedings

against the petitioner.

6. In the result:

(a) This Crl.M.C. is allowed.

(2) C.C.No.318/05 pending before the Judicial Magistrate of the First Class-I, Kannur, against the petitioner is quashed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge